रजिस्ट्री सं० डी-(डी)-72 REGISTERED No. D-(D)-72

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 34] नई दिल्ली, शुक्रवार, मई 18, 1984/वैशाख 28, 1906
No. 34] NEW DELHI, FRIDAY, MAY 18, 1984/VAISAKHA 28, 1906

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 18th May, 1984/Vaisakha 28, 1906 (Saka)

The following Act of Parliament received the assent of the President on the 18th May, 1984 and is hereby published for general information:—

THE PAYMENT OF GRATUITY (SECOND AMENDMENT) ACT, 1984

No. 26 OF 1984

[*18th May*, 1984.]

An Act further to amend the Payment of Gratuity Act, 1972.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Payment of Gratuity (Second Amendment) Act, 1984.

39 of 1972.

Amendment of section 1.

2. In section 1 of the Payment of Gratuity Act, 1972 (hereinafter referred to as the principal Act), after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) A shop or establishment to which this Act has become applicable shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time after it has become so applicable falls below ten.".

Amendment of section 2.

3. In section 2 of the principal Act, for clause (c) and the *Explanations* thereto, the following clause shall be substituted, namely:—

'(c) "continuous service" means continuous service as defined in section 2A;'.

Insertion of new section 2A.

4. In the principal Act, after section 2, the following section shall be inserted, namely:—

Continuous service.

"2A. For the purposes of this Act,—

(*1*) an employee shall be said to be in continuous service for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave (not being absence in respect of which an order imposing a punishment or penalty or treating the absence as break in service has been passed in accordance with the standing orders, rules or regulations governing the employees of the establishment), lay-off, strike or a lock-out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Act;

(*2*) where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (*1*), for any period of one year or six months, he shall be deemed to be in continuous service under the employer—

(*a*) for the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(*i*) one hundred and ninety days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(*ii*) two hundred and forty days, in any other case;

(*b*) for the said period of six months, if the employee during the period of six calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than—

(*i*) ninety-five days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(*ii*) one hundred and twenty days, in any other case;

(*3*) where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of clause (*1*), for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy-five per cent. of the number of days on which the establishment was in operation during such period.".

Amendment of section 5.

5. Section 5 of the principal Act shall be renumbered as sub-section (*1*) of that section and, after sub-section (*1*) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) The appropriate Government may, by notification and subject to such conditions as may be specified in the notification, exempt any employee or class of employees employed in any establishment, factory, mine, oilfield, plantation, port, railway company or shop to which this Act applies from the operation of the provisions of this Act, if, in the opinion of the appropriate Government, such employee or class of employees are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act.".

Validation.

6. The amendments made in the principal Act by section 3 and section 4 shall be deemed to have been made with effect from the 11th day of February, 1981 and accordingly any action or thing taken or done or purporting to have been taken or done under the principal Act on or after the said date and before the commencement of this Act, shall, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done as if the said amendments had been in force at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person, before the commencement of this Act, shall be punishable as an offence which would not have been so punishable if this Act had not come into force.

R. V. S. PERI SASTRI,
Secy. to the Govt. of India.

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1984